

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Civil Action No. 05-11395-RCL

PATRICIA BERGEVINE,
Plaintiff,

v.

PEASE & CURREN, INC, PEASE & CURREN
MATERIALS, INC., FRANCIS H. CURREN, JR.,
ROBERT H. PEASE, JR., FRANCIS H. CURREN,
III A/K/A KIP CURREN AND MEREDITH A.
CURREN.

Defendants.

PLAINTIFF'S INDIVIDUAL PROPOSED SCHEDULING ORDER

DATE OF CONFERENCE AND APPEARANCES OF COUNSEL

A Scheduling Conference is scheduled to be held on October 17, 2005 at 2:30 p.m. before Judge Reginald C. Lindsay. Gregory J. Aceto, Johnson & Aceto, P.C., 67 Batterymarch Street, Suite 400, Boston, MA 02110; Telephone (617) 728-0888, will appear on behalf of Plaintiff Patricia Bergevine. On or about October 6, 2005, counsel for the Defendants filed a Motion to Continue the Scheduling Conference, which is not opposed by the Plaintiff, but to date, no ruling has been made with regard to same. As such, Plaintiff can only submit her own proposed scheduling order.

1. SUMMARY OF POSITION ASSERTED BY THE PLAINTIFF

Plaintiff Patricia Bergevine (“Bergevine”) is asserting claims for breach of contract, fraud, violations of the Racketeer Influence and Corrupt Organization Act (RICO), 18 U.S.C. §§ 1962(a)-(d), negligence, negligent misrepresentation, negligent infliction of emotional distress, and intentional infliction of emotional distress arising from the Defendants Pease & Curren, Inc., Pease & Curren Materials, Inc., Francis H. Curren, Jr., Robert H. Pease, Jr., Francis H. Curren, III a/k/a Kip Curren and Meredith A. Curren’s (hereinafter the “Defendants”) fraudulent business practices committed during the Plaintiff Patricia Bergevine’s (hereinafter the “Plaintiff”) association and employment with the Defendants.

The Plaintiff’s assertions are based on her experiences while working as an independent contractor, and later as an employee, of the Defendants as a Dental Account Representative. The Plaintiff alleges that she discovered that the Defendants were systematically lowering the reported weights and percentage of metals recovered on the accounts the Plaintiff worked on in order to defraud their clients, employees and the Plaintiff. The Plaintiff further alleges that by lowering the amount of weight or percentage of each metal recovered, the Defendants paid less money to the clients and fewer commissions to the Plaintiff, and concealed the actual value of the lots assayed and recovered.

The Plaintiff reported the fraud to the Federal Bureau of Investigation and the Rhode Island State Police Financial Crimes Unit (“RISPFCU”) and left the employ of the Defendants shortly thereafter. Plaintiff’s Counsel has confirmed that an investigation by the RISPFCU is ongoing. The Plaintiff is demanding One Hundred Fifty Thousand Dollars (\$150,000.00) or the

amount that was withheld from her commissions as a result of the Defendants' fraud.

2. PLAINTIFF'S PROPOSED DISCOVERY PLAN

- a. Initial Disclosures: **December 1, 2005.**
- b. Discovery Cut-off: **March 1, 2006.**
No more than thirty (30) interrogatories per side.
No more than fifty (50) requests for production of documents per side.
- c. Deposition Deadlines: **June 1, 2006.**
No more than ten (10) depositions per side.

3. PROPOSED SCHEDULE FOR FILING MOTIONS

Dispositive Motion Deadline: **July 1, 2006.**

4. CERTIFICATIONS SIGNED BY COUNSEL AND PARTIES

The Plaintiff and her counsel hereby affirm that they have conferred and discussed:

- a. the establishment of a budget for the costs of conducting the full course litigation and for various alternatives; and
- b. considering the resolution of litigation through the use of an alternative dispute resolution program.

5. ADDITIONAL MATTERS

The Plaintiff does not consent to the exercise of jurisdiction of a magistrate judge.

RESPECTFULLY SUBMITTED,

/s/ Gregory J. Aceto

Gregory J. Aceto

Erin J. Brennan

Johnson & Aceto, P.C.

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Attorneys for Plaintiff